

**LOCAL GOVERNMENT BOARDS OF  
EXAMINERS**

2004 GENERAL SESSION

STATE OF UTAH

**Sponsor: James M. Evans**

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**LONG TITLE**

**General Description:**

This bill modifies provisions relating to Counties and the Utah Municipal Code to establish county and city boards of examiners.

**Highlighted Provisions:**

This bill:

- ▶ establishes county and city boards of examiners;
- ▶ provides for board membership, powers, meetings, and procedures;
- ▶ authorizes the filing of a claim with the board of examiners and establishes procedures for considering and reporting on a claim;
- ▶ provides for limits on the kinds of claims that can be considered by the board;
- ▶ authorizes the board to establish rules to govern appeals from the board of examiners to the legislative body of the county or city; and
- ▶ authorizes counties and cities to pay claims presented to the board of examiners and approved by the legislative body.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

ENACTS:



28        **10-3-1401**, Utah Code Annotated 1953  
29        **10-3-1402**, Utah Code Annotated 1953  
30        **10-3-1403**, Utah Code Annotated 1953  
31        **10-3-1404**, Utah Code Annotated 1953  
32        **10-3-1405**, Utah Code Annotated 1953  
33        **10-3-1406**, Utah Code Annotated 1953  
34        **17-44-101**, Utah Code Annotated 1953  
35        **17-44-102**, Utah Code Annotated 1953  
36        **17-44-103**, Utah Code Annotated 1953  
37        **17-44-104**, Utah Code Annotated 1953  
38        **17-44-105**, Utah Code Annotated 1953  
39        **17-44-106**, Utah Code Annotated 1953  
40        **17-44-107**, Utah Code Annotated 1953

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42        *Be it enacted by the Legislature of the state of Utah:*

43                Section 1. Section **10-3-1401** is enacted to read:

44                                **Part 14. City Board of Examiners**

45                **10-3-1401. City board of examiners -- Members -- Officers -- Meetings -- Records**  
46        **-- Rules.**

47                (1) (a) The mayor and two members of the legislative body of a city, chosen by the  
48        legislative body, shall constitute a city board of examiners.

49                (b) (i) The mayor shall be the president of the board of examiners and shall designate  
50        one of the two legislative body members as the secretary of the board.

51                (ii) In the absence of either the president or secretary, an officer pro tempore may be  
52        elected from the members of the board.

53                (2) A meeting of the board of examiners shall be held upon the call of the president or  
54        any two members of the board.

55                (3) The board shall keep a record of all its proceedings. Any member of the board may  
56        have the member's dissent to the action of a majority of the board entered upon the record.

57                (4) The board may establish rules, not inconsistent with law, to govern its proceedings.

58                Section 2. Section **10-3-1402** is enacted to read:

**10-3-1402. Powers of board of examiners -- Claim to be first considered by board of examiners.**

(1) A city board of examiners may examine all claims against the city for the payment of which the city has not provided funds or the settlement of which is not otherwise provided for by law.

(2) No claim against the city for the payment of which specifically designated funds are required to be allocated by the city legislative body may be passed upon by the city legislative body without having been considered and acted upon by the city board of examiners.

Section 3. Section **10-3-1403** is enacted to read:

**10-3-1403. Issuance of subpoenas -- Administering oaths, examining witnesses, and taking depositions -- Witness fees.**

(1) The president of the board may issue subpoenas and compel the attendance of witnesses and the production of books, papers, and things before the board or any member of the board.

(2) Any member of the board may:

(a) administer oaths;

(b) examine witnesses; and

(c) take depositions to be used before the board.

(3) (a) Within the city's budget constraints, the board may allow a reasonable fee to a witness subpoenaed before the board to testify against a claim pending before the board, but may not allow a fee to a witness who has appeared in behalf of a claimant.

(b) A fee under Subsection (3)(a) may not exceed the fee allowed by law to a witness in a civil case.

Section 4. Section **10-3-1404** is enacted to read:

**10-3-1404. Presenting claim to board of examiners -- Statement showing facts of claim -- Abstract of claims.**

(1) A person with a claim against the city for the payment of which the city has not provided funds or the settlement of which is not otherwise provided for by law may present the claim to the city board of examiners.

(2) Each claim presented to the board of examiners under Subsection (1) shall be accompanied by a statement showing the facts constituting the claim.

90           (3) Before the board of examiners may act upon a claim, an abstract of claims shall be  
91 entered upon the minutes of the board.

92           Section 5. Section **10-3-1405** is enacted to read:

93           **10-3-1405. Board meetings to consider claims -- Notice -- Adjournment from time**  
94 **to time.**

95           (1) The board of examiners shall meet as needed to consider claims presented under  
96 Section 10-3-1404.

97           (2) The board shall cause notice of each meeting under Subsection (1) to be published  
98 in a newspaper of general circulation within the city.

99           (3) At a meeting under Subsection (1), the board:

100           (a) shall examine and adjust claims presented under Section 10-3-1404; and

101           (b) may hear evidence in support of or against the claims.

102           (4) The board may adjourn a meeting under Subsection (1) from time to time until the  
103 board has completed its work of examining and adjusting the claim.

104           Section 6. Section **10-3-1406** is enacted to read:

105           **10-3-1406. Board findings and recommendations on claim -- Report to city**  
106 **legislative body -- Publishing abstract of claims -- Limit on reconsidering claims --**  
107 **Appeal.**

108           (1) After examining and adjusting a claim under Section 10-3-1405, the board of  
109 examiners shall report to the city legislative body the board's factual findings and  
110 recommendations concerning the claim.

111           (2) In making a recommendation under Subsection (1), the board may state and use any  
112 official or personal knowledge that any member of the board has regarding the claim.

113           (3) (a) The board shall report to the city legislative body under Subsection (1) each  
114 claim for which the city would be liable except for governmental immunity, whether the board  
115 recommends approval or disapproval of the claim.

116           (b) The board may not pass upon or send to the city legislative body a claim for which  
117 the city would not be liable even without governmental immunity.

118           (4) The board may establish rules to govern any appeal from a board decision to the  
119 city legislative body.

120           (5) A city may pay a claim presented to the city board of examiners under this part and

approved by the city legislative body.

Section 7. Section **17-44-101** is enacted to read:

**CHAPTER 44. COUNTY BOARD OF EXAMINERS**

**17-44-101. Title.**

This chapter is known as the "County Board of Examiners."

Section 8. Section **17-44-102** is enacted to read:

**17-44-102. County board of examiners -- Members -- Officers -- Meetings -- Records -- Rules.**

(1) (a) The county auditor, county attorney, and county treasurer shall constitute a county board of examiners.

(b) (i) The county auditor shall be the president of the board of examiners and the county attorney shall be the secretary.

(ii) In the absence of either the president or secretary, an officer pro tempore may be elected from the members of the board.

(2) A meeting of the board of examiners shall be held upon the call of the president or any two members of the board.

(3) The board shall keep a record of all its proceedings. Any member of the board may have the member's dissent to the action of a majority of the board entered upon the record.

(4) The board may establish rules, not inconsistent with law, to govern its proceedings.

Section 9. Section **17-44-103** is enacted to read:

**17-44-103. Powers of board of examiners -- Claim to be first considered by board of examiners.**

(1) A county board of examiners may examine all claims against the county for the payment of which the county has not provided funds or the settlement of which is not otherwise provided for by law.

(2) No claim against the county for the payment of which specifically designated funds are required to be allocated by the county legislative body may be passed upon by the county legislative body without having been considered and acted upon by the county board of examiners.

Section 10. Section **17-44-104** is enacted to read:

**17-44-104. Issuance of subpoenas -- Administering oaths, examining witnesses,**

**and taking depositions -- Witness fees.**

(1) The president of the board may issue subpoenas and compel the attendance of witnesses and the production of books, papers, and things before the board or any member of the board.

(2) Any member of the board may:

(a) administer oaths;

(b) examine witnesses; and

(c) take depositions to be used before the board.

(3) (a) Within the county's budget constraints, the board may allow a reasonable fee to a witness subpoenaed before the board to testify against a claim pending before the board, but may not allow a fee to a witness who has appeared in behalf of a claimant.

(b) A fee under Subsection (3)(a) may not exceed the fee allowed by law to a witness in a civil case.

Section 11. Section **17-44-105** is enacted to read:

**17-44-105. Presenting claim to board of examiners -- Statement showing facts of claim -- Abstract of claims.**

(1) A person with a claim against the county for the payment of which the county has not provided funds or the settlement of which is not otherwise provided for by law may present the claim to the county board of examiners.

(2) Each claim presented to the board of examiners under Subsection (1) shall be accompanied by a statement showing the facts constituting the claim.

(3) Before the board of examiners may act upon a claim, an abstract of claims shall be entered upon the minutes of the board.

Section 12. Section **17-44-106** is enacted to read:

**17-44-106. Board meetings to consider claims -- Notice -- Adjournment from time to time.**

(1) The board of examiners shall meet as needed to consider claims presented under Section 17-44-105.

(2) The board shall cause notice of each meeting under Subsection (1) to be published in a newspaper of general circulation within the county.

(3) At a meeting under Subsection (1), the board:

(a) shall examine and adjust claims presented under Section 17-44-105; and

(b) may hear evidence in support of or against the claims.

(4) The board may adjourn a meeting under Subsection (1) from time to time until the board has completed its work of examining and adjusting the claim.

Section 13. Section **17-44-107** is enacted to read:

**17-44-107. Board findings and recommendations on claim -- Report to county legislative body -- Publishing abstract of claims -- Limit on reconsidering claims -- Appeal.**

(1) After examining and adjusting a claim under Section 17-44-106, the board of examiners shall report to the county legislative body the board's factual findings and recommendations concerning the claim.

(2) In making a recommendation under Subsection (1), the board may state and use any official or personal knowledge that any member of the board has regarding the claim.

(3) (a) The board shall report to the county legislative body under Subsection (1) each claim for which the county would be liable except for governmental immunity, whether the board recommends approval or disapproval of the claim.

(b) The board may not pass upon or send to the county legislative body a claim for which the county would not be liable even without governmental immunity.

(4) The board may establish rules to govern any appeal from a board decision to the county legislative body.

(5) A county may pay a claim presented to the county board of examiners under this part and approved by the county legislative body.

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**Legislative Review Note**  
**as of 1-21-04 11:40 AM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**

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**Fiscal Note**  
**Bill Number SB0153**

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**Local Government Boards of Examiners**

*04-Feb-04*

*8:26 AM*

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**State Impact**

Any fiscal impact to local government would be dependent on the damages awarded by the municipalities involved.

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**Individual and Business Impact**

No significant fiscal impact.

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**Office of the Legislative Fiscal Analyst**